

CHILDREN AND FAMILIES

DIVISION OF YOUTH AND FAMILY SERVICES

Resource Care

Readoption with Amendments: N.J.A.C. 10:122B

Proposed: July 7, 2008 at 40 N.J.R. 3924(a).

Adopted: November 24, 2008 by Kimberly S. Ricketts, Commissioner, Department of Children and Families.

Filed: December 2, 2008 as R.2009 d.4, with a technical change not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 30:4C-4(h) and 30:4C-26a.

Effective Dates: December 2, 2008, Readoption;
January 5, 2009, Amendments.

Expiration Date: December 2, 2013.

Summary of Public Comments and Agency Responses:

Comments were received from Janet Farrand, Foster and Adoptive Family Services, and Ronald K. Chen, Public Advocate.

1. COMMENT: Foster and Adoptive Family Services (FAFS) agrees with the readoption with amendments of N.J.A.C. 10:122B.

RESPONSE: The Division thanks Foster and Adoptive Family Services for their support of this chapter.

N.J.A.C. 10:122B-3.1(a)2

2. COMMENT: FAFS agrees with the fingerprinting of all adult resource home household members. FAFS would like clarification of the exclusion of youth in placement. They are considered adults and have an impact on other children in placement in the home. If a youth in placement between 18 and 21 years is moved to a new resource home, shouldn't the new resource family have the benefit of knowing that the possibility of the youth's participation in any criminal activity has been checked?

RESPONSE: Thank you for your support of fingerprinting all adult household members. The Division knows the history of each child under its care and supervision. The Division believes that with its knowledge of the child's history, the Division's staff can make appropriate placement and safety decisions regarding the placement of children. It is not necessary for the Division to obtain a criminal history record check for children in placement.

3. COMMENT: FAFS is curious about the need to fingerprint a household member at the point of turning 18. An adult criminal history record does not begin to accumulate until the age of 18. A check done when a child reaches 18 does not return any evidence of a record. Wouldn't the point when a household member reaches the age of 19 be a better time to begin criminal history checks through fingerprinting?

RESPONSE: N.J.S.A. 30:4C-26.8a requires the completion of a State and Federal criminal history investigation for each resource family parent or other adult living in the home. The Division believes that the fairest way to address this requirement for new adult household members is to do the criminal history investigation soon after their 18th birthday.

N.J.A.C. 10:122B-4.1

4. COMMENT: The Public Advocate supports the requirement that an employee of the Division or of a contract agency provide the resource parent with information on the child's health needs.

Amend the requirement to mandate that the employee inform the resource parent that both N.J.A.C. 8:51A-2.2 and Medicaid's Early and Periodic Screening, Diagnosis, and Treatment program require the child to be blood lead tested by certain ages (less than 72 months). The nutritional information that the Division representative provides to resource parents should include information about eating habits that decrease the likelihood that a child's body will absorb lead.

RESPONSE: The Division thanks the Public Advocate for his support of this rule.

In a related proposal at 40 N.J.R. 3930(a), the Division has amended N.J.A.C. 10:122D-2.5(e) to state that each child in out-of-home placement shall receive examinations as stated in the Early and Periodic Screening and Diagnostic Treatment (EPSDT) periodicity schedule, in accordance

with N.J.A.C. 10:54-5.10 through 5.13. Blood lead testing is part of the EPSDT examinations at medically-specified ages, N.J.A.C. 10:54-5.9(b)5iv.

The Division believes that dietary advice, related to the absorption of lead and specific to a child's individual needs, is the responsibility of the doctor or medical professional examining and treating the child.

N.J.A.C. 10:122B-5.1

5. COMMENT: Governor Corzine's Executive Order No. 100 explicitly addresses training resource family parents about the dangers of lead. We think N.J.A.C. 10:122B-5.1 would be the ideal place to require that resource parents be provided with information on how to recognize lead paint hazards, the requirements regarding lead paint testing, and treatment of lead paint exposure.

RESPONSE: The Division is studying the issue of in-service training on lead paint hazards, testing and treatment for exposure, for resource parents, as required by Executive Order No. 100. The Division notes that Executive Order No. 100 was effective April 29, 2008. The proposed readoption with amendments had to be submitted to the Office of Administrative Law by June 5, 2008, to prevent its expiration prior to readoption. The Division did not have the opportunity to complete the required study prior to submitting this chapter to the Office of Administrative Law. N.J.A.C. 10:122B-5.1 is a rule about pre-service training, not in-service training, so it would be inappropriate to add any requirements for in-service training.

Summary of Agency-Initiated Change:

The Division is correcting a typographical error at N.J.A.C. 10:122B-1.2(b), substituting a colon in place of a dash in the citation to N.J.A.C. 10:122B-5.

Federal Standards Statement

The requirements for the rules readopted with amendments are not in excess of those imposed by Federal law. The rules implement various sections of Title IV-E of the Social Security Act, 42 U.S.C. §§671 et seq.

42 U.S.C. §671(a)(10) requires that the State have a plan that provides for standards for foster homes, including standards for the protection of civil rights for any foster home receiving funds through Title IV-E. 42 U.S.C. §671(a)(11) requires that the State have a plan that provides for the periodic review of these standards. These rules establish nondiscrimination standards to protect the civil rights of resource parent applicants, resource parents, and children in placement, at N.J.A.C. 10:122B-1.5. The rules readopted with amendments provide the periodic review of the standards, as required by 42 U.S.C. §671(a)11.

42 U.S.C. §671(a)(18) prohibits a state from denying an applicant the opportunity to become an adoptive or foster parent or from denying or delaying the placement of a child for adoption or in a foster home on the basis of the race, color, or national origin of the adoptive or foster parent applicant, adoptive or foster parent, or child. 42 U.S.C. §674(d)1 requires a graduated reduction in Federal payments under this title if 42 U.S.C. §671(a)18 is violated by a

state. These rules establish the Division's application of these statutes to the New Jersey resource care program.

42 U.S.C. §671(a)(20)(A) requires that the plan provide procedures for criminal records checks for foster and adoptive parent applicants. N.J.A.C. 10:122B-3.1 states the Division's and the contract agency's responsibilities in completing the criminal history checks.

42 U.S.C. §671(a)(24) requires a State plan, which requires that a prospective foster parent applicant receive appropriate knowledge and skills to provide foster care, and that such knowledge and skills continue to be provided after a child is placed with the foster parent. N.J.A.C. 10:122B-5.1 requires that the Division provide pre-service training. N.J.A.C. 10:122B-4.1 requires that the Division or contract agency provide information and assistance to each licensed foster parent.

These rules supplement and do not exceed the Federal laws related to foster and adoptive care.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:122B.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*):

CHAPTER 122B
RESOURCE CARE

SUBCHAPTER 1. GENERAL PROVISIONS

10:122B-1.1 Purpose

(a) The purpose of this chapter is to state:

1. The definitions of certain words and terms used in this chapter and N.J.A.C. 10:122C, 10:122D, and 10:122E;
2. The Division's non-discrimination policy regarding resource parent applicants, resource parents, and children in placement;
3. When and how services to children in placement may be limited;
4. The circumstances under which a Department employee, household member, or relative can become a resource parent;
5. (No change.)
6. The Division's and contract agencies' responsibilities to the resource parent;
7. When a resource parent applicant can be reimbursed for a physical examination and other expenses incurred related to becoming a licensed resource parent;
8. How the Division approves and pays for child care when the resource parent is working; and

9. (No change.)

(b) The purpose of this chapter, N.J.A.C. 10:122C, 10:122D, and 10:122E does not:

1. Create an employer/employee relationship between the Division and a licensed resource parent; or
2. Create any right to be a resource parent, apart from that which may exist under statute or case law.

10:122B-1.2 Scope

(a) The provisions of this chapter and N.J.A.C. 10:122D and 10:122E shall apply to each person licensed by the Division to provide resource care services for a child under the Division's supervision and to each household member; to each person making application to be a resource parent and to each household member; and to each Division representative or contract agency employee responsible for studying, reevaluating or licensing resource parents and their families or providing services to children in resource care.

(b) N.J.A.C. *[10-122B-5]* *10:122B-5* applies to Division representatives and resource parents licensed by the Office of Licensing and supervised directly by the Division, and not to a contract agency's employees and resource parents.

(c) The regulatory framework of this series of chapters on resource care and out-of-home placement services includes this chapter and N.J.A.C. 10:122C, Manual of Requirements for Resource Family Parents, N.J.A.C. 10:122D, Services for Children in Out-of-Home Placement, and N.J.A.C. 10:122E, Removal of Children in Placement from Resource Family

Homes. The rules contained in this chapter, N.J.A.C. 10:122D and 10:122E are to be used in conjunction with the rules in N.J.A.C. 10:122C when applied to resource homes under the supervision of the Division.

10:122B-1.3 Definitions

(a) The definitions in N.J.A.C. 10:122C-1.3 are hereby incorporated into this chapter by reference.

(b) The following words and terms used in this chapter and in N.J.A.C. 10:122C, 10:122D, and 10:122E shall have the following meanings, unless the context clearly indicates otherwise:

...

10:122B-1.4 Service limitations

(a) The Division shall provide needed services within the limits of legislative appropriations to all eligible children in placement and their families in similar circumstances. The provision of services shall also be subject to limitations due to actual ability of the Division to provide such services directly or by purchasing such services from appropriate privately sponsored agencies or institutions.

(b) (No change.)

10:122B-1.5 Nondiscrimination

(a) Pursuant to 42 U.S.C. §671(a)(18), neither the Division nor a contract agency providing resource care services shall deny to any individual the opportunity to become a resource parent on the basis of the race, color, or national origin of the individual or of the child involved; or delay or deny the placement of a child into resource care on the basis of the race, color, or national origin of the resource parent or child involved.

(b) Neither the Division nor any contract agency providing resource care services shall discriminate with regards to the licensing of a resource parent or to providing resource care in accordance with N.J.A.C. 10:122C-2.1(b)1, on the basis of age; disability; gender; religion; sexual orientation; parental status; or birth status, against:

1. Any person who requests information about becoming a resource parent;
2. A resource parent applicant;
3. A licensed resource parent;
4. A child needing placement in a resource home; or
5. A child placed in a resource home.

(c) Neither the Division nor any contract agency providing resource care services shall deny an individual the opportunity to become a resource parent on the basis of marital, civil union, or domestic partnership status.

(d) When a couple lives together, both partners shall be considered to be resource parents who shall meet the standards contained in N.J.A.C. 10:122C.

10:122B-1.6 Dispute resolution

Any person included in the scope of these rules, as specified in N.J.A.C. 10:122B-1.2(a), shall refer to N.J.A.C. 10:120A, Dispute Resolution, N.J.A.C. 10:120B, Hearings, and N.J.A.C. 10:122C-2.5 to determine if he or she has any opportunity available to resolve a dispute with the Division or a contract agency.

SUBCHAPTER 2. DEPARTMENT EMPLOYEES, RELATIVES AND HOUSEHOLD MEMBERS AS RESOURCE PARENTS

10:122B-2.1 Department employees and household members as resource parents

(a) For purposes of this subchapter only, “Department employee” means a person who is employed in, or has a work station at, any of the Department of Children and Families’ offices, and anyone who has access to computerized or paper files, which contain client information, including those persons who are regarded as independent contractors for other purposes.

(b) A Department employee or a member of the Department employee's household can become a licensed resource parent for a child under the Division's supervision only under the following circumstances:

1. A child needing resource care has a kinship connection to a relative or a family friend who is a Department employee or a member of the employee's household;
2. A Department employee or member of a Department employee's household was licensed as a resource parent prior to the Department employee being hired by the Department and at least one child placed by the Division continues to reside in the Department employee's home; or

3. A Department employee or member of the Department employee's household wants to adopt a child with special needs, as defined in N.J.A.C. 10:121-1.1.

(c) Prior to a Department employee or household member applying to be a licensed resource parent, the Department employee shall complete the approval process for an outside activity and receive approval by the Department's ethics liaison. The approval by the ethics liaison becomes part of the Department employee's application to be a resource parent in accordance with N.J.A.C. 10:122C-2.1.

(d) The study of a Department employee's home shall be conducted by a Division representative assigned to an office where the Department employee has no connections, either personal or professional.

10:122B-2.2 Relatives of an employee who have a separate household

(a) For the purpose of this subchapter, the term "relative" is defined as a person connected to a Department employee by blood, marriage, civil union, domestic partnership, or adoption.

(b) Any relative of a Department employee may apply and may be licensed to be a resource parent, as long as the relative lives in a separate household from the Department employee.

(c) Prior to a relative of a Department employee applying to be a licensed resource parent, the Department employee shall complete the approval process as stated in N.J.A.C. 10:122B-2.1(c) above.

(d) A Division representative of the office serving the geographic area in which the relative lives completes the home study unless the Department employee works in that office. In that situation, the Area Director assigns an office in an adjacent county to complete the home study, the placement, and the supervision of the placement.

(e) The Division representatives and Office of Licensing employees shall secure all records regarding the relative's home study and resource home, so that the Department employee has no access to them.

SUBCHAPTER 3. CRIMINAL HISTORY RECORDS CHECKS

10:122B-3.1 Criminal history records checks

(a) The Division representative or contract agency employee shall inform the resource parent applicant that fingerprints for State and Federal criminal history records checks must be taken, pursuant to N.J.S.A. 30:4C-26.8, for:

1. Each resource parent applicant and each adult household member; and
2. Each new adult household member who is new to the family, including each household member who reaches 18 years of age.

(b) The Division representative or contract agency employee shall also inform the resource parent applicant of the procedures for getting the fingerprints taken.

(c) The Division representative or contract agency employee shall obtain the results of the State and Federal criminal history records checks for each resource parent or applicant and adult household member after the fingerprints have been taken.

(d) Each Division representative and contract agency employee shall keep confidential all criminal history information obtained regarding the resource parent or applicant and each household member.

SUBCHAPTER 4. DIVISION AND CONTRACT AGENCY RESPONSIBILITIES

10:122B-4.1 Division or contract agency responsibilities to a resource parent

(a) The Division representative or contract agency employee shall work with the resource parent to provide the child in placement with reasonable opportunities to attend religious activities and services in accordance with the child's preference and the wishes of the child's own parents.

(b) The Division representative or contract agency employee shall provide the resource parent with information on:

1.-3. (No change.)

(c) The Division representative or contract agency employee shall obtain the school transfer card promptly and give it to the resource parent if there is a need for the child to transfer to a different school upon placement with this resource parent.

(d) The Division representative or contract agency employee shall assist the resource parent to support and encourage the child in placement to engage in recreational and social activities appropriate to the age, interests and abilities of the child in placement.

(e) The Division representative or contract agency employee shall identify with the resource parent a child in placement's special transportation needs, if any, and how they will be met.

(f) The Division representative or contract agency employee shall provide the resource parent with a means of access to the Division on a 24-hour basis.

(g) The Division shall comply with the provisions of the agreement between the resource parent and the Division, including the system for payment of reimbursement.

(h) The Division representative or contract agency employee shall establish the resource parent's role in working with the parent to achieve the child's case goal. The Division representative or contract agency employee shall support the resource parent in fulfilling his or her role.

(i) The Division representative or contract agency employee shall inform the resource parent of the standards of confidentiality contained in N.J.S.A. 9:6-8.10a, 45 CFR 205.50 and N.J.A.C. 10:133G.

**SUBCHAPTER 5. PROVISIONS RELATED TO APPLICANTS AND RESOURCE
PARENTS LICENSED AND SUPERVISED BY THE DIVISION**

10:122B-5.1 Pre-service training

(a) The Division shall hold pre-service training on a monthly basis in various locations throughout the State.

1. (No change.)

2. A Division representative may provide the pre-service training at the applicant's home if the resource parent applicant demonstrates a compelling need to receive the training in his or her home.

(b) A Division representative shall conduct the pre-service training program and shall utilize an experienced resource parent who is approved by the Division as a co-trainer, as resources permit.

(c) During the initial phase of the pre-service training, the Division representative shall provide information about the standards for becoming a resource parent, the home study process, the resource home resource needs of the Division, and the Division's policies and procedures related to resource care, as specified in this chapter, N.J.A.C. 10:122C, 10:122D, and 10:122E. The pre-service training shall include an explanation of:

1. (No change.)
2. The Division's requirements for becoming a resource parent, as outlined in N.J.A.C. 10:122C.

10:122B-5.2 Reimbursement for resource parent applicant

(a) The resource parent applicant may request reimbursement of the cost of a physical examination necessary to provide the information required in N.J.A.C. 10:122C. The Division representative shall approve reimbursement at a rate determined by the Division, if the resource parent applicant's family has a verified income below 150 percent of the Federal Poverty Income Guidelines, as published in the Federal Register, and the examination is not available free of charge.

(b) The resource parent applicant may file for reimbursement for transportation, parking and babysitting costs incurred by the resource parent applicant, which are directly related to attendance at the pre-service training sessions. The resource parent applicant may file for reimbursement after completing the entire pre-service training program.

(c) (No change.)

10:122B-5.3 Home visit

(a) The Division representative shall visit the resource parent applicant's home at least one time as part of the study process.

(b) During the home visit, the Division representative shall:

1. Assess compliance with the sleeping space and life safety standards, as outlined in N.J.A.C. 10:122C-4, Physical Facility Requirements;

2.-4. (No change.)

5. Discuss the type of child acceptable and the potential impact of resource care on the family; and

6. Discuss any other questions raised by the resource parent applicant or any household member.

10:122B-5.4 Resource parent applicant withdrawal

(a) A resource parent applicant may withdraw his or her application at any time during the licensing process.

(b) The Division shall consider that the resource parent applicant has withdrawn if the resource parent applicant:

1.-2. (No change.)

(c) The Division representative shall give the resource parent applicant written notice acknowledging the withdrawal and informing the resource parent applicant that he or she may reapply at any time.

10:122B-5.5 Transportation reimbursement

The Division shall reimburse the resource parent for transportation for a child in placement's special needs with prior approval of the office manager. Special needs may include the treatment of physical, emotional, mental or cognitive conditions or to comply with a court summons or court order.

**10:122B-5.6 Resource parent's employment and supervision or child care for the
child in placement**

(a) If a single resource parent is, or both resource parents are, employed outside the home, the Division representative shall develop with the resource parent, as part of the case plan, a plan for the care and supervision of each child in placement while the resource parent is at work. The plan shall be appropriate to the age and needs of the child in placement, subject to supervisory approval, and in compliance with N.J.A.C. 10:122C-6.1(a)4.

(b)-(c) (No change.)